

AMENDMENTS TO THE CLAIMS

Please amend claims 1-4, 25-28, 51 and 55, as indicated below pursuant to 37 C.F.R. § 121, so that the pending claims read as follows:

1. (Currently amended) A method for identifying a cancer cell or tissue, said cancer cell being associated with elevated CAP43 expression, which method comprises detecting, in a cell or tissue, an elevated level of a CAP43 ~~gene-product~~ polypeptide,

wherein said CAP43 polypeptide:

(a) comprises an amino acid sequence at least 70% identical to the sequence set forth in Figure 1B (SEQ ID NO:2); and

(b) is expressed at elevated levels in cancer cells, and

wherein the detection of an elevated level of the CAP43 polypeptide identifies the cell or tissue as the cancer cell or tissue.

2. (Currently amended) A method according to claim 1 wherein the CAP43 ~~gene product~~ polypeptide is encoded by:

(a) ~~a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);~~

(b) a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1); or

(c)

(b) a nucleic acid at least 70% identical, at the nucleotide level, to the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

3. (Currently amended) A method according to claim 1 wherein the CAP43 ~~gene product is a polypeptide comprising~~ comprises:

(a) the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); ~~or~~

(b) ~~an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).~~

4. (Currently amended) A method according to claim 1 wherein the CAP43 ~~gene product~~ polypeptide is detected by an antibody that specifically binds to [[a]] said CAP43 polypeptide.

5. (Original) A method according to claim 4 wherein the antibody is detectably labeled.

6. (Original) A method according to claim 4, which method comprises steps of:

- (a) applying the antibody to a cell or tissue; and
- (b) detecting binding of the antibody to a CAP43 polypeptide.

7. (Original) A method according to claim 6 wherein the antibody is applied in situ to the cell or tissue.

8-9. (Cancelled)

10. (Previously presented) A method according to claim 1 wherein the cancer is a lung cancer, a kidney cancer, a breast cancer, a prostate cancer, a melanoma, or a malignant fibrous histiocytoma.

11-24.(Cancelled)

25. (Currently amended) A method for diagnosing, in an individual, a cancer associated with elevated CAP43 expression, which method comprises detecting, in a sample from the individual, an elevated level of a CAP43 ~~gene product~~ polypeptide,

wherein said CAP43 polypeptide:

- (a) comprises an amino acid sequence at least 70% identical to the sequence set forth in Figure 1B (SEQ ID NO:2); and

(b) is expressed at elevated levels in cancer cells, and.
wherein the detection of an elevated level of the CAP43 polypeptide in said sample
diagnoses said cancer in the individual.

26. (Currently amended) A method according to claim 25 wherein the CAP43 gene product polypeptide is encoded by:

- (a) ~~a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);~~
- (b) a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1); or
- (c)
- (b) a nucleic acid having a nucleotide sequence at least 70% identical to the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

27. (Currently amended) A method according to claim 25 wherein the CAP43 gene product ~~is a polypeptide comprising~~ comprises:

- (a) the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); ~~or~~
- (b) ~~an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).~~

28. (Currently amended) A method according to claim 25 wherein the gene product CAP43 polypeptide is detected by an antibody that specifically binds to [[a]] said CAP43 polypeptide.

29. (Original) A method according to claim 28 wherein the antibody is detectably labeled.

30. (Original) A method according to claim 28, which method comprises steps of:
- (a) applying the antibody to the sample; and
 - (b) detecting binding of the antibody to a CAP43 polypeptide.
31. (Original) A method according to claim 25 wherein the sample is a body fluid sample.
32. (Original) A method according to claim 31 wherein the body fluid sample is a blood sample.
33. (Original) A method according to claim 25 wherein the sample is a cell or tissue sample.
34. (Cancelled)
35. (Previously presented) A method according to claim 25 wherein the cancer is a lung cancer, a kidney cancer, a breast cancer, a prostate cancer, melanoma, or a malignant fibrous histiocytoma.
- 36-50. (Cancelled)
51. (Currently amended) A method for identifying a cancer cell or tissue, which method comprises detecting, in a cell or tissue, an elevated level of a CAP43 gene product, wherein the CAP43 gene product ~~has an amino acid sequence:~~
- (a) ~~encoded by a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);~~
 - (b) ~~encoded by a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);~~

- ~~(c) — encoded by a nucleic acid having a nucleotide sequence at least 70% identical to the sequence set forth in FIG. 1A (SEQ ID NO:1);~~
- (d) comprising comprises the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); ~~or~~
- ~~(e) — comprising an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).~~

and wherein the detection of an elevated level of the CAP43 gene product identifies said cell or tissue as the cancer cell or tissue.

52. (Previously presented) A method according to claim 51 wherein the cancer is a lung cancer, a kidney cancer, a breast cancer, a prostate cancer, a melanoma, or a malignant fibrous histiocyoma.

53-54. (Cancelled)

55. (Currently amended) A method for diagnosing a cancer in an individual, which method comprises detecting, in a sample from the individual, an elevated level of a CAP43 gene product, wherein the CAP43 gene product ~~has an amino acid sequence:~~

- ~~(a) — encoded by a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);~~
- ~~(b) — encoded by a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);~~
- ~~(c) — encoded by a nucleic acid having a nucleotide sequence at least 70% identical to the sequence set forth in FIG. 1A (SEQ ID NO:1);~~
- (d) comprising comprises the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); ~~or~~
- ~~(e) — comprising an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2)~~

and wherein the detection of an elevated level of the CAP43 gene product in said sample diagnoses said cancer in the individual.

56. (Previously presented) A method according to claim 55 wherein the cancer is a lung cancer, a kidney cancer, a breast cancer, a prostate cancer, a melanoma, or a malignant fibrous histiocytoma.

57-102. (Cancelled)

103. (New) A method according to claim 2, wherein the CAP43 polypeptide is encoded by a nucleic acid comprising the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

104. (New) A method according to claim 26, wherein the CAP43 polypeptide is encoded by a nucleic acid comprising the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

105. (New) A method according to claim 51, wherein the CAP43 polypeptide is encoded by a nucleic acid comprising the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

106. (New) A method according to claim 55, wherein the CAP43 polypeptide is encoded by a nucleic acid comprising the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).